THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 11th August, 2006

W.P.No.2941 of 2006

Between:

P. Tirupathi Naidu & another ... Petitioners

and

The District Collector,
Nellore District, Nellore and
others ... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.2941 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the respondents in not taking any action on the representation purported to have been filed by the petitioner on 15-12-2005 before the 1st respondent as arbitrary and illegal and consequently to direct the respondents to launch criminal prosecution against the Contractor of Gundemadakala Tank at Gundemadakala village, Vinjamoor Mandal of Nellore District..

At the outset, it may be noticed that the said contractor is not made a party to the Writ Petition.

It is the case of the petitioner that Gundemadakala Tank was constructed about 65 years back and at the time of construction of the tank, certain Cluster Ring Regulators were fixed to the bund of the tank to regulate water flow, to avoid over-flow of the water from the tank and to release water from the said cluster rings, when the tank is full of water in rainy season in order to avoid breaches to the bund. Due to wear and tear, the said cluster regulators were not working properly and they were to be repaired by the persons, who are residing outside the State. The bund repairs were frequently undertaken by wasting Government funds. Sometimes, the irrigation officials, by colluding with the contractors, are misappropriating the funds. There were certain leakages and again the bund broke down. Again to attend the repairs, Rs.7.00 lakhs have been sanctioned, but even the said

amount was not spent and the same was misappropriated by the contractor in collusion with some political people and Irrigation Department officials. Now, excess estimate efforts are being made to undertake to repairs to ring bund, without there being any necessity for the same. According to the petitioner, under the guise of repairs, the cluster rings were removed by the contractor from the bund, but without getting them repaired, the same were sold away by him to an iron Merchant at Vinjamur town. Though he made a representation on 15-12-2005 before the 1st respondent, no action has been taken. Hence, the Writ Petition.

A detailed counter affidavit has been filed by the 3rd respondent denying the allegations made by the petitioner. It has been asserted that during recent cyclonic rains in October/November,2005, the tank bund was breached between chainage 820M to 840M i.e, the right side of the flood regular. Therefore, as a temporary remedy, a ring bund was formed with an estimated cost of Rs.7.00 lakhs with a view to store the water in the tank in order to avoid water crisis for the standing paddy crop as per the standing instructions of the Government to save the crops. Further, the funds have not been misappropriated, in this work, as alleged by the petitioners, since during the execution, some portion of executed ring bund was damaged due to heavy flood water during the rains of December,2005. Hence, the damaged portion was also re-executed within the original estimated cost of Rs.7.00 lakhs.

In view of the assertions made in the counter affidavit, I am of the considered opinion that the Writ Petition is misconceived. The Writ Petition seems to have been filed only for wrecking vengeance. Apart from this, for non-joinder of proper party also, the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

11-8-2006

prk